

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 345**  
97TH GENERAL ASSEMBLY

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Reported from the Committee on Commerce, Consumer Protection, Energy and the Environment, May 8, 2013, with recommendation that the Senate Committee Substitute do pass.

1193S.04C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 67.1830, 67.1836, 67.1838, 67.1842, 392.415, 392.420, and 392.461, RSMo, and to enact in lieu thereof twenty-two new sections relating to telecommunications.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 67.1830, 67.1836, 67.1838, 67.1842, 392.415, 392.420, 2 and 392.461, RSMo, are repealed and twenty-two new sections enacted in lieu 3 thereof, to be known as sections 67.1830, 67.1836, 67.1838, 67.1842, 67.5090, 4 67.5092, 67.5094, 67.5096, 67.5098, 67.5100, 67.5102, 67.5103, 389.585, 389.586, 5 389.587, 389.588, 389.589, 389.591, 392.415, 392.420, 392.461, and 392.611, to 6 read as follows:

67.1830. As used in sections 67.1830 to 67.1846, the following terms shall 2 mean:

3 (1) "Abandoned equipment or facilities", any equipment materials, 4 apparatuses, devices or facilities that are:

5 (a) Declared abandoned by the owner of such equipment or facilities;

6 (b) No longer in active use, physically disconnected from a portion of the 7 operating facility or any other facility that is in use or in service, and no longer 8 capable of being used for the same or similar purpose for which the equipment, 9 apparatuses or facilities were installed; or

10 (c) No longer in active use and the owner of such equipment or facilities 11 fails to respond within thirty days to a written notice sent by a political 12 subdivision;

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

13           (2) "Degradation", the actual or deemed reduction in the useful life of the  
14 public right-of-way resulting from the cutting, excavation or restoration of the  
15 public right-of-way;

16           (3) "Emergency", includes but is not limited to the following:

17           (a) An unexpected or unplanned outage, cut, rupture, leak or any other  
18 failure of a public utility facility that prevents or significantly jeopardizes the  
19 ability of a public utility to provide service to customers;

20           (b) An unexpected or unplanned outage, cut, rupture, leak or any other  
21 failure of a public utility facility that results or could result in danger to the  
22 public or a material delay or hindrance to the provision of service to the public  
23 if the outage, cut, rupture, leak or any other such failure of public utility facilities  
24 is not immediately repaired, controlled, stabilized or rectified; or

25           (c) Any occurrence involving a public utility facility that a reasonable  
26 person could conclude under the circumstances that immediate and undelayed  
27 action by the public utility is necessary and warranted;

28           (4) "Excavation", any act by which earth, asphalt, concrete, sand, gravel,  
29 rock or any other material in or on the ground is cut into, dug, uncovered,  
30 removed, or otherwise displaced, by means of any tools, equipment or explosives,  
31 except that the following shall not be deemed excavation:

32           (a) Any de minimis displacement or movement of ground caused by  
33 pedestrian or vehicular traffic;

34           (b) The replacement of utility poles and related equipment at the existing  
35 general location that does not involve either a street or sidewalk cut; or

36           (c) Any other activity which does not disturb or displace surface conditions  
37 of the earth, asphalt, concrete, sand, gravel, rock or any other material in or on  
38 the ground;

39           (5) "Management costs" or "rights-of-way management costs", the actual  
40 costs a political subdivision reasonably incurs in managing its public rights-of-  
41 way, including such costs, if incurred, as those associated with the following:

42           (a) Issuing, processing and verifying right-of-way permit applications;

43           (b) Inspecting job sites and restoration projects;

44           (c) Protecting or moving public utility right-of-way user construction  
45 equipment after reasonable notification to the public utility right-of-way user  
46 during public right-of-way work;

47           (d) Determining the adequacy of public right-of-way restoration;

48           (e) Restoring work inadequately performed after providing notice and the

49 opportunity to correct the work; and

50 (f) Revoking right-of-way permits.

51 Right-of-way management costs shall be the same for all entities doing similar  
52 work. Management costs or rights-of-way management costs shall not include  
53 payment by a public utility right-of-way user for the use or rent of the public  
54 right-of-way, degradation of the public right-of-way or any costs as outlined in  
55 paragraphs (a) to (h) of this subdivision which are incurred by the political  
56 subdivision as a result of use by users other than public utilities, the **attorneys'**  
57 **fees and cost of litigation relating to the interpretation of this section or section**  
58 **67.1832, or litigation, interpretation or development of any ordinance enacted**  
59 **pursuant to this section or section 67.1832, or attorneys' fees and costs in**  
60 **connection with issuing, processing, or verifying right-of-way permit or**  
61 **other applications or agreements**, or the political subdivision's fees and costs  
62 related to appeals taken pursuant to section 67.1838. In granting or renewing a  
63 franchise for a cable television system, a political subdivision may impose a  
64 franchise fee and other terms and conditions permitted by federal law;

65 (6) "Managing the public right-of-way", the actions a political subdivision  
66 takes, through reasonable exercise of its police powers, to impose rights, duties  
67 and obligations on all users of the right-of-way, including the political  
68 subdivision, in a reasonable, competitively neutral and nondiscriminatory and  
69 uniform manner, reflecting the distinct engineering, construction, operation,  
70 maintenance and public work and safety requirements applicable to the various  
71 users of the public right-of-way, provided that such rights, duties and obligations  
72 shall not conflict with any federal law or regulation. In managing the public  
73 right-of-way, a political subdivision may:

74 (a) Require construction performance bonds or insurance coverage or  
75 demonstration of self-insurance at the option of the political subdivision or if the  
76 public utility right-of-way user has twenty-five million dollars in net assets and  
77 does not have a history of permitting noncompliance within the political  
78 subdivision as defined by the political subdivision, then the public utility right-of-  
79 way user shall not be required to provide such bonds or insurance;

80 (b) Establish coordination and timing requirements that do not impose a  
81 barrier to entry;

82 (c) Require public utility right-of-way users to submit, for right-of-way  
83 projects commenced after August 28, 2001, requiring excavation within the public  
84 right-of-way, whether initiated by a political subdivision or any public utility

85 right-of-way user, project data in the form maintained by the user and in a  
86 reasonable time after receipt of the request based on the amount of data  
87 requested;

88 (d) Establish right-of-way permitting requirements for street excavation;

89 (e) Establish removal requirements for abandoned equipment or facilities,  
90 if the existence of such facilities prevents or significantly impairs right-of-way  
91 use, repair, excavation or construction;

92 (f) Establish permitting requirements for towers and other structures or  
93 equipment for wireless communications facilities in the public right-of-way,  
94 notwithstanding the provisions of section 67.1832;

95 (g) Establish standards for street restoration in order to lessen the impact  
96 of degradation to the public right-of-way; and

97 (h) Impose permit conditions to protect public safety;

98 (7) "Political subdivision", a city, town, village, county of the first  
99 classification or county of the second classification;

100 (8) "Public right-of-way", the area on, below or above a public roadway,  
101 highway, street or alleyway in which the political subdivision has an ownership  
102 interest, but not including:

103 (a) The airwaves above a public right-of-way with regard to cellular or  
104 other nonwire telecommunications or broadcast service;

105 (b) Easements obtained by utilities or private easements in platted  
106 subdivisions or tracts;

107 (c) Railroad rights-of-way and ground utilized or acquired for railroad  
108 facilities; or

109 (d) [Poles,] Pipes, cables, conduits, wires, optical cables, or other means  
110 of transmission, collection or exchange of communications, information,  
111 substances, data, or electronic or electrical current or impulses utilized by a  
112 municipally owned or operated utility pursuant to chapter 91 or pursuant to a  
113 charter form of government;

114 (9) "Public utility", every cable television service provider, every pipeline  
115 corporation, gas corporation, electrical corporation, rural electric cooperative,  
116 telecommunications company, water corporation, heating or refrigerating  
117 corporation or sewer corporation under the jurisdiction of the public service  
118 commission; every municipally owned or operated utility pursuant to chapter 91  
119 or pursuant to a charter form of government or cooperatively owned or operated  
120 utility pursuant to chapter 394; every street light maintenance district; every

121 privately owned utility; and every other entity, regardless of its form of  
122 organization or governance, whether for profit or not, which in providing a public  
123 utility type of service for members of the general public, utilizes pipes, cables,  
124 conduits, wires, optical cables, or other means of transmission, collection or  
125 exchange of communications, information, substances, data, or electronic or  
126 electrical current or impulses, in the collection, exchange or dissemination of its  
127 product or services through the public rights-of-way;

128 (10) "Public utility right-of-way user", a public utility owning or  
129 controlling a facility in the public right-of-way; and

130 (11) "Right-of-way permit", a permit issued by a political subdivision  
131 authorizing the performance of excavation work in a public right-of-way.

67.1836. 1. A political subdivision may deny an application for a right-of-  
2 way permit if:

3 (1) The public utility right-of-way user fails to provide all the necessary  
4 information requested by the political subdivision for managing the public right-  
5 of-way;

6 (2) The public utility right-of-way user has failed to return the public  
7 right-of-way to its previous condition under a previous permit;

8 (3) The political subdivision has provided the public utility right-of-way  
9 user with a reasonable, competitively neutral, and nondiscriminatory justification  
10 for requiring an alternative method for performing the work identified in the  
11 permit application or a reasonable alternative route that will result in neither  
12 additional installation expense up to ten percent to the public utility right-of-way  
13 user nor a declination of service quality;

14 (4) The political subdivision determines that the denial is necessary to  
15 protect the public health and safety, provided that the authority of the political  
16 subdivision does not extend to those items under the jurisdiction of the public  
17 service commission, such denial shall not interfere with a public utility's right of  
18 eminent domain of private property, and such denials shall only be imposed on  
19 a competitively neutral and nondiscriminatory basis; or

20 (5) The area is environmentally sensitive as defined by state statute or  
21 federal law or is a historic district as defined by local ordinance.

22 2. A political subdivision may, after reasonable notice and an opportunity  
23 to cure, revoke a right-of-way permit granted to a public utility right-of-way user,  
24 with or without fee refund, and/or impose a penalty as established by the political  
25 subdivision until the breach is cured, but only in the event of a substantial breach

26 of the terms and material conditions of the permit. A substantial breach by a  
27 permittee includes but is not limited to:

28 (1) A material violation of a provision of the right-of-way permit;

29 (2) An evasion or attempt to evade any material provision of the right-of-  
30 way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon  
31 the political subdivision or its citizens;

32 (3) A material misrepresentation of fact in the right-of-way permit  
33 application;

34 (4) A failure to complete work by the date specified in the right-of-way  
35 permit, unless a permit extension is obtained or unless the failure to complete the  
36 work is due to reasons beyond the permittee's control; and

37 (5) A failure to correct, within the time specified by the political  
38 subdivision, work that does not conform to applicable national safety codes,  
39 industry construction standards, or local safety codes that are no more stringent  
40 than national safety codes, upon inspection and notification by the political  
41 subdivision of the faulty condition.

42 3. Any political subdivision that requires public utility right-of-way users  
43 to obtain a right-of-way permit, except in an emergency, prior to performing  
44 excavation work within a public right-of-way shall promptly, but not longer than  
45 thirty-one days, process all completed permit applications. **If a political**  
46 **subdivision fails to act on an application for a right-of-way permit**  
47 **within thirty-one days, the application shall be deemed approved.** In  
48 order to avoid excessive processing and accounting costs to either the political  
49 subdivision or the public utility right-of-way user, the political subdivision may  
50 establish procedures for bulk processing of permits and periodic payment of  
51 permit fees.

67.1838. [1.] A public utility right-of-way user that has been denied a  
2 right-of-way permit, has had its right-of-way permit revoked, believes that the  
3 fees imposed on the public right-of-way user by the political subdivision do not  
4 conform to the requirements of section 67.1840, **believes the political**  
5 **subdivision has violated any provision of sections 67.1830 to 67.1848**, or  
6 asserts any other issues related to the use of the public right-of-way, [shall have,  
7 upon written request, such denials, revocations, fee impositions, or other disputes  
8 reviewed by the governing body of the political subdivision or an entity assigned  
9 by the governing body for this purpose. The governing body of the political  
10 subdivision or its delegated entity shall specify, in its permit processing

11 schedules, the maximum number of days by which the review request shall be  
12 filed in order to be reviewed by the governing body of the political subdivision or  
13 its delegated entity. A decision affirming the denial, revocation, fee imposition  
14 or dispute resolution shall be in writing and supported by written findings  
15 establishing the reasonableness of the decision.

16 2. Upon affirmation by the governing body of the denial, revocation, fee  
17 imposition or dispute resolution, the public utility right-of-way user may, in  
18 addition to all other remedies and if both parties agree, have the right to have the  
19 matter resolved by mediation or binding arbitration. Binding arbitration shall  
20 be before an arbitrator agreed to by both the political subdivision and the public  
21 utility right-of-way user. The costs and fees of a single arbitrator shall be borne  
22 equally by the political subdivision and the public utility right-of-way user.

23 3. If the parties cannot agree on an arbitrator, the matter shall be  
24 resolved by a three-person arbitration panel consisting of one arbitrator selected  
25 by the political subdivision, one arbitrator selected by the public utility right-of-  
26 way user, and one person selected by the other two arbitrators. In the event that  
27 a three-person arbitrator panel is necessary, each party shall bear the expense  
28 of its own arbitrator and shall jointly and equally bear with the other party the  
29 expense of the third arbitrator and of the arbitration.

30 4. Each party to the arbitration shall pay its own costs, disbursements  
31 and attorney fees] **may bring an action for review in any court of**  
32 **competent jurisdiction. The court shall rule on any such petition for**  
33 **review in an expedited manner by moving the petition to the head of**  
34 **the docket. Nothing shall deny the authority of its right to a hearing**  
35 **before the court.**

67.1842. 1. In managing the public right-of-way and in imposing fees  
2 pursuant to sections 67.1830 to 67.1846, no political subdivision shall:

- 3 (1) Unlawfully discriminate among public utility right-of-way users;
- 4 (2) Grant a preference to any public utility right-of-way user;
- 5 (3) Create or erect any unreasonable requirement for entry to the public  
6 right-of-way by public utility right-of-way users;
- 7 (4) Require a telecommunications company to obtain a franchise or require  
8 a public utility right-of-way user to pay for the use of the public right-of-way,  
9 except as provided in sections 67.1830 to 67.1846; [or]
- 10 (5) Enter into a contract or any other agreement for providing for an  
11 exclusive use, occupancy or access to any public right-of-way; **or**

12           **(6) Require any public utility that has legally been granted**  
13 **access to the political subdivision's right-of-way prior to August 28,**  
14 **2001, to enter into an agreement or obtain a permit for general access**  
15 **to or the right to remain in the right-of-way of the political subdivision.**

16           2. A public utility right-of-way user shall not be required to apply for or  
17 obtain right-of-way permits for projects commenced prior to August 28, 2001,  
18 requiring excavation within the public right-of-way, for which the user has  
19 obtained the required consent of the political subdivision, or that are otherwise  
20 lawfully occupying or performing work within the public right-of-way. The public  
21 utility right-of-way user may be required to obtain right-of-way permits prior to  
22 any excavation work performed within the public right-of-way after August 28,  
23 2001.

24           3. A political subdivision shall not collect a fee imposed pursuant to  
25 section 67.1840 through the provision of in-kind services by a public utility right-  
26 of-way user, nor require the provision of in-kind services as a condition of consent  
27 to use the political subdivision's public right-of-way; however, nothing in this  
28 subsection shall preclude requiring services of a cable television operator, open  
29 video system provider or other video programming provider as permitted by  
30 federal law.

**67.5090. Sections 67.5090 to 67.5102 shall be known and may be**  
2 **cited as the "Uniform Wireless Communications Infrastructure**  
3 **Deployment Act" and is intended to encourage and streamline the**  
4 **deployment of broadband facilities and to help ensure that robust**  
5 **wireless communication services are available throughout Missouri.**

**67.5092. As used in sections 67.5090 to 67.5102, the following**  
2 **terms mean:**

3           **(1) "Accessory equipment", any equipment serving or being used**  
4 **in conjunction with a wireless facility or wireless support**  
5 **structure. The term includes utility or transmission equipment, power**  
6 **supplies, generators, batteries, cables, equipment buildings, cabinets**  
7 **and storage sheds, shelters, or similar structures;**

8           **(2) "Antenna", communications equipment that transmits or**  
9 **receives electromagnetic radio signals used in the provision of any type**  
10 **of wireless communications services;**

11           **(3) "Applicant", any person engaged in the business of providing**  
12 **wireless communications services or the wireless communications**

13 infrastructure required for wireless communications services who  
14 submits an application;

15 (4) "Application", a request submitted by an applicant to an  
16 authority to construct a new wireless support structure, for the  
17 substantial modification of a wireless support structure, or for  
18 collocation of a wireless facility or replacement of a wireless facility on  
19 an existing structure;

20 (5) "Authority", each state, county, and municipal governing  
21 body, board, agency, office, or commission authorized by law and acting  
22 in its capacity to make legislative, quasi-judicial, or administrative  
23 decisions relative to zoning or building permit review of an  
24 application. The term shall not include state courts having jurisdiction  
25 over land use, planning, or zoning decisions made by an authority;

26 (6) "Base station", a station at a specific site authorized to  
27 communicate with mobile stations, generally consisting of radio  
28 transceivers, antennas, coaxial cables, power supplies, and other  
29 associated electronics, and includes a structure that currently supports  
30 or houses an antenna, a transceiver, coaxial cables, power supplies, or  
31 other associated equipment;

32 (7) "Building permit", a permit issued by an authority prior to  
33 commencement of work on the collocation of wireless facilities on an  
34 existing structure, the substantial modification of a wireless support  
35 structure, or the commencement of construction of any new wireless  
36 support structure, solely to ensure that the work to be performed by  
37 the applicant satisfies the applicable building code;

38 (8) "Collocation", the placement or installation of a new wireless  
39 facility on existing structure, including electrical transmission towers,  
40 water towers, buildings, and other structures capable of structurally  
41 supporting the attachment of wireless facilities in compliance with  
42 applicable codes;

43 (9) "Electrical transmission tower", an electrical transmission  
44 structure used to support high voltage overhead power lines. The term  
45 shall not include any utility pole;

46 (10) "Equipment compound", an area surrounding or near a  
47 wireless support structure within which are located wireless facilities;

48 (11) "Existing structure", a structure that exists at the time a  
49 request to place wireless facilities on a structure is filed with an

50 authority. The term includes any structure that is capable of  
51 supporting the attachment of wireless facilities in compliance with  
52 applicable building codes, National Electric Safety Codes, and  
53 recognized industry standards for structural safety, capacity,  
54 reliability, and engineering, including, but not limited to, towers,  
55 buildings, and water towers. The term shall not include any utility  
56 pole;

57 (12) "Replacement", includes constructing a new wireless support  
58 structure of equal proportions and of equal height or such other height  
59 that would not constitute a substantial modification to an existing  
60 structure in order to support wireless facilities or to accommodate  
61 collocation and includes the associated removal of the pre-existing  
62 wireless facilities or wireless support structure;

63 (13) "Substantial modification", the mounting of a proposed  
64 wireless facility on a wireless support structure which, as applied to  
65 the structure as it was originally constructed:

66 (a) Increases the existing vertical height of the structure by:

67 a. More than ten percent; or

68 b. The height of one additional antenna array with separation  
69 from the nearest existing antenna not to exceed twenty feet, whichever  
70 is greater; or

71 (b) Involves adding an appurtenance to the body of a wireless  
72 support structure that protrudes horizontally from the edge of the  
73 wireless support structure more than twenty feet or more than the  
74 width of the wireless support structure at the level of the  
75 appurtenance, whichever is greater (except where necessary to shelter  
76 the antenna from inclement weather or to connect the antenna to the  
77 tower via cable);

78 (c) Involves the installation of more than the standard number  
79 of new outdoor equipment cabinets for the technology involved, not to  
80 exceed four new equipment cabinets; or

81 (d) Increases the square footage of the existing equipment  
82 compound by more than two thousand five hundred square feet;

83 (14) "Utility", any person, corporation, county, municipality  
84 acting in its capacity as a utility, municipal utility board, or other  
85 entity, or department thereof or entity related thereto, providing retail  
86 or wholesale electric, natural gas, water, waste water, data, cable

87 television, or telecommunications or internet protocol-related services;

88 (15) "Utility pole", a structure owned or operated by a utility that  
89 is designed specifically for and used to carry lines, cables, or wires for  
90 telephony, cable television, or electricity, or to provide lighting;

91 (16) "Water tower", a water storage tank, or a standpipe or an  
92 elevated tank situated on a support structure, originally constructed  
93 for use as a reservoir or facility to store or deliver water;

94 (17) "Wireless facility", the set of equipment and network  
95 components, exclusive of the underlying wireless support structure,  
96 including, but not limited to, antennas, accessory equipment,  
97 transmitters, receivers, power supplies, cabling and associated  
98 equipment necessary to provide wireless communications services;

99 (18) "Wireless support structure", a structure, such as a  
100 monopole, tower, or building capable of supporting wireless  
101 facilities. This definition does not include utility poles.

67.5094. In order to ensure uniformity across the state of  
2 Missouri with respect to the consideration of every application, an  
3 authority shall not:

4 (1) Require an applicant to submit information about, or  
5 evaluate an applicant's business decisions with respect to its designed  
6 service, customer demand for service, or quality of its service to or  
7 from a particular area or site;

8 (2) Evaluate an application based on the availability of other  
9 potential locations for the placement of wireless support structures or  
10 wireless facilities, including without limitation the option to collocate  
11 instead of construct a new wireless support structure or for substantial  
12 modifications of a support structure, or vice versa; provided, however,  
13 that solely with respect to an application for a new wireless support  
14 structure, an authority may require an applicant to state in its  
15 application that it conducted an analysis of available collection  
16 opportunities on existing wireless towers within the same search ring  
17 defined by the applicant, solely for the purpose of confirming that an  
18 applicant undertook such an analysis;

19 (3) Dictate the type of wireless facilities, infrastructure or  
20 technology to be used by the applicant, including, but not limited to,  
21 requiring an applicant to construct a distributed antenna system in lieu  
22 of constructing a new wireless support structure;

23           **(4) Require the removal of existing wireless support structures**  
24 **or wireless facilities, wherever located, as a condition for approval of**  
25 **an application;**

26           **(5) With respect to radio frequency emissions, impose**  
27 **environmental testing, sampling, or monitoring requirements or other**  
28 **compliance measures on wireless facilities that are categorically**  
29 **excluded under the Federal Communication Commission's rules for**  
30 **radio frequency emissions under 47 CFR 1.1307(b)(1) or other**  
31 **applicable federal law, as the same may be amended or supplemented;**

32           **(6) Establish or enforce regulations or procedures for RF signal**  
33 **strength or the adequacy of service quality;**

34           **(7) In conformance with 47 U.S.C. Section 332(c)(7)(b)(4), reject**  
35 **an application, in whole or in part, based on perceived or alleged**  
36 **environmental effects of radio frequency emissions;**

37           **(8) Impose any restrictions with respect to objects in navigable**  
38 **airspace that are greater than or in conflict with the restrictions**  
39 **imposed by the Federal Aviation Administration;**

40           **(9) Prohibit the placement of emergency power systems that**  
41 **comply with federal and state environmental requirements;**

42           **(10) Charge an application fee, consulting fee, or other fee**  
43 **associated with the submission, review, processing, and approval of an**  
44 **application that is not required for similar types of commercial**  
45 **development within the authority's jurisdiction. Fees imposed by an**  
46 **authority for or directly by a third-party entity providing review or**  
47 **technical consultation to the authority must be based on actual, direct,**  
48 **and reasonable administrative costs incurred for the review,**  
49 **processing, and approval of an application. Except when mutually**  
50 **agreeable to the applicant and the authority, total charges and fees**  
51 **shall not exceed five hundred dollars for a collocation application or**  
52 **one thousand five hundred dollars for an application for a new wireless**  
53 **support structure or for a substantial modification of a wireless**  
54 **support structure. Notwithstanding the foregoing, in no event shall an**  
55 **authority or any third party entity include within its charges any**  
56 **travel expenses incurred in a third-party's review of an application and**  
57 **in no event shall an applicant be required to pay or reimburse an**  
58 **authority for consultation or other third-party fees based on a**  
59 **contingency or result-based arrangement;**

60           **(11) Impose surety requirements, including bonds, escrow**  
61 **deposits, letters of credit, or any other type of financial surety, to**  
62 **ensure that abandoned or unused facilities can be removed unless the**  
63 **authority imposes similar requirements on other permits for other**  
64 **types of commercial development or land uses;**

65           **(12) Condition the approval of an application on the applicant's**  
66 **agreement to provide space on or near the wireless support structure**  
67 **for authority or local governmental services at less than the market**  
68 **rate for space or to provide other services via the structure or facilities**  
69 **at less than the market rate for such services;**

70           **(13) Limit the duration of the approval of an application;**

71           **(14) Discriminate or create a preference on the basis of the**  
72 **ownership, including ownership by the authority, of any property,**  
73 **structure, or tower when promulgating rules or procedures for siting**  
74 **wireless facilities or for evaluating applications;**

75           **(15) Impose any requirements or obligations regarding the**  
76 **presentation or appearance of facilities, including, but not limited to,**  
77 **those relating to the kind or type of materials used and those relating**  
78 **to arranging, screening, or landscaping of facilities if such regulations**  
79 **or obligations are unreasonable;**

80           **(16) Impose any requirements that an applicant purchase,**  
81 **subscribe to, use, or employ facilities, networks, or services owned,**  
82 **provided, or operated by an authority, in whole or in part, or by any**  
83 **entity in which an authority has a competitive, economic, financial,**  
84 **governance, or other interest;**

85           **(17) Condition the approval of an application on, or otherwise**  
86 **require, the applicant's agreement to indemnify or insure the authority**  
87 **in connection with the authority's exercise of its police power-based**  
88 **regulations; or**

89           **(18) Condition or require the approval of an application based**  
90 **on the applicant's agreement to permit any wireless facilities provided**  
91 **or operated, in whole or in part, by an authority or by any entity in**  
92 **which an authority has a competitive, economic, financial, governance,**  
93 **or other interest, to be placed at or collocated with the applicant's**  
94 **wireless support structure.**

**67.5096. 1. Authorities may continue to exercise zoning, land use,**  
2 **planning, and permitting authority within their territorial boundaries**

3 with regard to the siting of new wireless support structures, subject to  
4 the provisions of sections 67.5090 to 67.5103, including without  
5 limitation section 67.5094, and subject to federal law.

6 2. Any applicant that proposes to construct a new wireless  
7 support structure within the jurisdiction of any authority, planning or  
8 otherwise, that has adopted planning and zoning regulations in  
9 accordance with sections 67.5090 to 67.5103 shall:

10 (1) Submit the necessary copies and attachments of the  
11 application to the appropriate authority. Each application shall  
12 include a copy of a lease, letter of authorization or other agreement  
13 from the property owner evidencing applicant's right to pursue the  
14 application; and

15 (2) Comply with applicable local ordinances concerning land use  
16 and the appropriate permitting processes.

17 3. Disclosure of records in the possession or custody of authority  
18 personnel, including but not limited to documents and electronic data,  
19 shall be subject to chapter 610.

20 4. The authority, within one hundred twenty calendar days of  
21 receiving an application to construct a new wireless support structure  
22 or within such additional time as may be mutually agreed to by an  
23 applicant and an authority, shall:

24 (1) Review the application in light of its conformity with  
25 applicable local zoning regulations. An application is deemed to be  
26 complete unless the authority notifies the applicant in writing, within  
27 thirty calendar days of submission of the application, of the specific  
28 deficiencies in the application which, if cured, would make the  
29 application complete. Upon receipt of a timely written notice that an  
30 application is deficient, an applicant may take thirty calendar days  
31 from receiving such notice to cure the specific deficiencies. If the  
32 applicant cures the deficiencies within thirty calendar days, the  
33 application shall be reviewed and processed within one hundred twenty  
34 calendar days from the initial date the application was received. If the  
35 applicant requires a period of time beyond thirty calendar days to cure  
36 the specific deficiencies, the one hundred twenty calendar days  
37 deadline for review shall be extended by the same period of time;

38 (2) Make its final decision to approve or disapprove the  
39 application; and

40           **(3) Advise the applicant in writing of its final decision.**

41           **5. If the authority fails to act on an application to construct a**  
42 **new wireless support structure within the one hundred twenty**  
43 **calendar days review period specified under subsection 4 of this**  
44 **section or within such additional time as may be mutually agreed to by**  
45 **an applicant and an authority, the application shall be deemed**  
46 **approved.**

47           **6. A party aggrieved by the final action of an authority, either by**  
48 **its affirmatively denying an application under the provisions of this**  
49 **section or by its inaction, may bring an action for review in any court**  
50 **of competent jurisdiction.**

**67.5098. 1. Authorities may continue to exercise zoning, land use,**  
2 **planning, and permitting authority within their territorial boundaries**  
3 **with regard to applications for substantial modifications of wireless**  
4 **support structures, subject to the provisions of sections 67.5090 to**  
5 **67.5103, including without limitation section 67.5094, and subject to**  
6 **federal law.**

7           **2. Any applicant that applies for a substantial modification of a**  
8 **wireless support structure within the jurisdiction of any authority,**  
9 **planning or otherwise, that has adopted planning and zoning**  
10 **regulations in accordance with sections 67.5090 to 67.5103 shall:**

11           **(1) Submit the necessary copies and attachments of the**  
12 **application to the appropriate authority. Each application shall**  
13 **include a copy of a lease, letter of authorization, or other agreement**  
14 **from the property owner evidencing applicant's right to pursue the**  
15 **application; and**

16           **(2) Comply with applicable local ordinances concerning land use**  
17 **and the appropriate permitting processes.**

18           **3. Disclosure of records in the possession or custody of authority**  
19 **personnel, including but not limited to documents and electronic data,**  
20 **shall be subject to chapter 610.**

21           **4. The authority, within ninety calendar days of receiving an**  
22 **application for a substantial modification of wireless support**  
23 **structures, shall:**

24           **(1) Review the application in light of its conformity with**  
25 **applicable local zoning regulations. An application is deemed to be**  
26 **complete unless the authority notifies the applicant in writing, within**

27 thirty calendar days of submission of the application, of the specific  
28 deficiencies in the application which, if cured, would make the  
29 application complete. Upon receipt of a timely written notice that an  
30 application is deficient, an applicant may take thirty calendar days  
31 from receiving such notice to cure the specific deficiencies. If the  
32 applicant cures the deficiencies within thirty calendar days, the  
33 application shall be reviewed and processed within ninety calendar  
34 days from the initial date the application was received. If the applicant  
35 requires a period of time beyond thirty calendar days to cure the  
36 specific deficiencies, the ninety calendar days deadline for review shall  
37 be extended by the same period of time;

38 (2) Make its final decision to approve or disapprove the  
39 application; and

40 (3) Advise the applicant in writing of its final decision.

41 5. If the authority fails to act on an application for a substantial  
42 modification within the ninety calendar days review period specified  
43 under subsection 4 of this section, or within such additional time as  
44 may be mutually agreed to by an applicant and an authority, the  
45 application for a substantial modification shall be deemed approved.

46 6. A party aggrieved by the final action of an authority, either by  
47 its affirmatively denying an application under the provisions of this  
48 section or by its inaction, may bring an action for review in any court  
49 of competent jurisdiction.

67.5100. 1. Subject to the provisions of sections 67.5090 to  
2 67.5103, including section 67.5094, collocation applications and  
3 applications for replacement of wireless facilities shall be reviewed for  
4 conformance with applicable building permit requirements, National  
5 Electric Safety Codes, and recognized industry standards for structural  
6 safety, capacity, reliability, and engineering, but shall not otherwise be  
7 subject to zoning or land use requirements, including design or  
8 placement requirements, or public hearing review.

9 2. The authority, within forty-five calendar days of receiving a  
10 collocation application or application for replacement of wireless  
11 facilities, shall:

12 (1) Review the collocation application or application to replace  
13 wireless facilities in light of its conformity with applicable building  
14 permit requirements and consistency with sections 67.5090 to 67.5103.

15 A collocation application or application to replace wireless facilities is  
16 deemed to be complete unless the authority notifies the applicant in  
17 writing, within fifteen calendar days of submission of the application,  
18 of the specific deficiencies in the application which, if cured, would  
19 make the application complete. Each collocation application or  
20 application to replace wireless facilities shall include a copy of a lease,  
21 letter of authorization, or other agreement from the property owner  
22 evidencing applicant's right to pursue the application. Upon receipt of  
23 a timely written notice that a collocation application or application to  
24 replace wireless facilities is deficient, an applicant may take fifteen  
25 calendar days from receiving such notice to cure the specific  
26 deficiencies. If the applicant cures the deficiencies within fifteen  
27 calendar days, the application shall be reviewed and processed within  
28 forty-five calendar days from the initial date the application was  
29 received. If the applicant requires a period of time beyond fifteen  
30 calendar days to cure the specific deficiencies, the forty-five calendar  
31 days deadline for review shall be extended by the same period of time;

32 (2) Make its final decision to approve or disapprove the  
33 collocation application or application for replacement of wireless  
34 facilities; and

35 (3) Advise the applicant in writing of its final decision.

36 3. If the authority fails to act on a collocation application or  
37 application to replace wireless facilities within the forty-five calendar  
38 days review period specified in subsection 2 of this section, the  
39 application shall be deemed approved.

40 4. The provisions of sections 67.5090 to 67.5103 shall not:

41 (1) Authorize an authority, except when acting solely in its  
42 capacity as a utility, to mandate, require, or regulate the placement,  
43 modification, or collocation of any new wireless facility on new,  
44 existing, or replacement poles owned or operated by a utility;

45 (2) Expand the power of an authority to regulate any utility; or

46 (3) Restrict any utility's rights or authority, or negate any  
47 utility's agreement, regarding requested access to, or the rates and  
48 terms applicable to placement of any wireless facility on new, existing,  
49 or replacement poles, structures, or existing structures owned or  
50 operated by a utility.

51 5. A party aggrieved by the final action of an authority, either by

52 its affirmatively denying an application under the provisions of this  
53 section or by its inaction, may bring an action for review in any court  
54 of competent jurisdiction.

67.5102. In accordance with the policies of this state to further  
2 the deployment of wireless communications infrastructure:

3 (1) An authority may not institute any moratorium on the  
4 permitting, construction, or issuance of approval of new wireless  
5 support structures, substantial modifications of wireless support  
6 structures, or collocations if such moratorium exceeds six months in  
7 length and if the legislative act establishing it fails to state reasonable  
8 grounds and good cause for such moratorium. No such moratorium  
9 shall affect an already pending application;

10 (2) To encourage applicants to request construction of new  
11 wireless support structures on public lands and to increase local  
12 revenues:

13 (a) An authority may not charge a wireless service provider or  
14 wireless infrastructure provider any rental, license, or other fee to  
15 locate a wireless support structure on an authority's property in excess  
16 of the current market rates for rental or use of similarly situated  
17 property. If the applicant and the authority do not agree on the  
18 applicable market rate for any such public land and cannot agree on a  
19 process by which to derive the applicable market rate for any such  
20 public land, then the market rate will be determined by a panel of three  
21 certified appraisers licensed under chapter 339, using the following  
22 process. Each party will appoint one certified appraiser to the panel,  
23 and the two certified appraisers so appointed will appoint a third  
24 certified appraiser. Each appraiser will independently appraise the  
25 appropriate lease rate, and the market rate shall be set at the mid-point  
26 between the highest and lowest market rates among the three  
27 independent appraisals, provided the mid-point between the highest  
28 and lowest appraisals is greater than or less than ten percent of the  
29 appraisal of the third appraiser chosen by the parties' appointed  
30 appraisers. In such case, the third appraisal will determine the rate for  
31 the lease. The appraisal process shall be concluded within ninety  
32 calendar days from the date the applicant first tenders its proposed  
33 lease rate to the authority. Each party will bear the cost of its own  
34 appointed appraiser, and the parties shall share equally the cost of the

35 third appraiser chosen by the two appointed appraisers. Nothing in  
36 this paragraph shall bar an applicant and an authority from agreeing  
37 to reasonable, periodic reviews and adjustments of current market  
38 rates during the term of a lease or contract to use an authority's  
39 property; and

40 (b) An authority may not offer a lease or contract to use public  
41 lands to locate a wireless support structure on an authority's property  
42 that is less than fifteen years in duration unless the applicant agrees  
43 to accept a lease or contract of less than fifteen years in duration;

44 (3) Nothing in subsection 2 of this section is intended to limit an  
45 authority's lawful exercise of zoning, land use, or planning and  
46 permitting authority with respect to applications for new wireless  
47 support structures on an authority's property under subsection 1 of  
48 section 67.5096.

67.5103. Notwithstanding any provision of sections 67.5090 to  
2 67.5102, nothing herein shall provide any applicant the power of  
3 eminent domain or the right to compel any private or public property  
4 owner, or the department of conservation or department of natural  
5 resources to:

6 (1) Lease or sell property for the construction of a new wireless  
7 support structure; or

8 (2) Locate or cause the collocation or expansion of a wireless  
9 facility on any existing structure or wireless support structure.

389.585. 1. As used in sections 389.585 to 389.591, the following  
2 terms mean:

3 (1) "Crossing", the construction, operation, repair, or  
4 maintenance of a facility over, under, or across a railroad right-of-way  
5 by a utility when the right-of-way is owned by a land management  
6 company and not a railroad or railroad corporation;

7 (2) "Direct expenses", includes, but is not limited to, any or all of  
8 the following:

9 (a) The cost of inspecting and monitoring the crossing site;

10 (b) Administrative and engineering costs for review of  
11 specifications and for entering a crossing on the railroad's books, maps,  
12 and property records and other reasonable administrative and  
13 engineering costs incurred as a result of the crossing;

14 (c) Document and preparation fees associated with a crossing

15 and any engineering specifications related to the crossing;

16 (d) Damages assessed in connection with the rights granted to a  
17 utility with respect to a crossing;

18 (3) "Facility", any cable, conduit, wire, pipe, casing pipe,  
19 supporting poles and guys, manhole, or other material or equipment  
20 that is used by a utility to furnish any of the following:

21 (a) Communications, communications-related, wireless  
22 communications, video, or information services;

23 (b) Electricity;

24 (c) Gas by piped system;

25 (d) Petroleum or petroleum products by piped system;

26 (e) Sanitary and storm sewer service;

27 (f) Water by piped system;

28 (4) "Land management company", an entity that owns, leases,  
29 holds by easement, holds by adverse possession or otherwise possesses  
30 a corridor which is used for rail transportation purposes and is not a  
31 railroad or railroad corporation;

32 (5) "Land management corridor", includes one or more of the  
33 following:

34 (a) A right-of-way or other interest in real estate that is owned,  
35 leased, held by easement, held by adverse possession, or otherwise  
36 possessed by a land management company and not a railroad or  
37 railroad corporation; and which is used for rail transportation  
38 purposes. "Land management corridor" does not include yards,  
39 terminals, or stations. "Land management corridor" also does not  
40 include railroad tracks or lines which have been legally abandoned;

41 (b) Any other interest in a right-of-way formerly owned by a  
42 railroad or railroad corporation that has been acquired by a land  
43 management company or similar entity and which is used for rail  
44 transportation purposes;

45 (6) "Notice", a written description of the proposed project. Such  
46 notice shall include, at a minimum: a description of the proposed  
47 crossing including blueprints or plats, print copies of the engineering  
48 specifications for the crossing, a proposed time line for the  
49 commencement and completion of work at the crossing, a narrative  
50 description of the work to be performed at the crossing, proof of  
51 insurance for the work to be done, and other reasonable requirements

52 necessary for the processing of an application;

53 (7) "Railroad" or "railroad corporation", a railroad corporation  
54 organized and operating under chapter 388, or any other corporation,  
55 trustees of a railroad corporation, company, affiliate, association, joint  
56 stock association or company, firm, partnership, or individual, which  
57 is an owner, operator, occupant, lessee, manager, or railroad right-of-  
58 way agent acting on behalf of a railroad or railroad corporation;

59 (8) "Railroad right-of-way", includes one or more of the following:

60 (a) A right-of-way or other interest in real estate that is owned  
61 or operated by a land management company and not a railroad or  
62 railroad corporation;

63 (b) Any other interest in a former railroad right-of-way that has  
64 been acquired or is operated by a land management company or similar  
65 entity;

66 (9) "Special circumstances", includes either or both of the  
67 following:

68 (a) The characteristics of a segment of a railroad right-of-way  
69 not found in a typical segment of a railroad right-of-way that enhance  
70 the value or increase the damages or the engineering or construction  
71 expenses for the land management company associated with a proposed  
72 crossing, or to the current or reasonably anticipated use by a land  
73 management company of the railroad right-of-way, necessitating  
74 additional terms and conditions or compensation associated with a  
75 crossing;

76 (b) Variances from the standard specifications requested by the  
77 land management company;

78 "Special circumstances" may include, but is not limited to, the railroad  
79 right-of-way segment's relationship to other property, location in urban  
80 or other developed areas, the existence of unique topography or natural  
81 resources, or other characteristics or dangers inherent in the  
82 particular crossing or segment of the railroad right-of-way;

83 (10) "Telecommunications service", the transmission of  
84 information by wire, radio, optical cable, electronic impulses, or other  
85 similar means. As used in this definition, "information" means  
86 knowledge or intelligence represented by any form of writing, signs,  
87 signals, pictures, sounds, or any other symbols;

88 (11) "Utility", shall include:

89 (a) Any public utility subject to the jurisdiction of the public  
90 service commission;

91 (b) Providers of telecommunications service, wireless  
92 communications, or other communications-related service;

93 (c) Any electrical corporation which is required by its bylaws to  
94 operate on the not-for-profit cooperative business plan, with its  
95 consumers who receive service as the stockholders of such corporation,  
96 and which holds a certificate of public convenience and necessity to  
97 serve a majority of its customer-owners in counties of the third  
98 classification as of August 28, 2003;

99 (d) Any rural electric cooperative, and

100 (e) Any municipally owned utility.

389.586. 1. After the land management company receives a copy  
2 of the notice from the utility, the land management company shall send  
3 a complete copy of that notice, by certified mail or by private delivery  
4 service which requires a return receipt, to the railroad or railroad  
5 corporation within two business days. No utility may commence a  
6 crossing until the railroad or railroad corporation has approved the  
7 crossing. The railroad or railroad corporation shall have thirty days  
8 from the receipt of the notice, to review and approve or reject the  
9 proposed crossing. The railroad or railroad corporation shall reject a  
10 proposed crossing only if special circumstances exist. If the railroad  
11 or railroad corporation rejects a proposed crossing, the utility may  
12 submit an amended proposal for a crossing. The railroad or railroad  
13 corporation shall have an additional thirty days from receipt of the  
14 amended proposal to review and approve or reject the amended  
15 crossing proposal. The railroad or railroad corporation shall not  
16 unreasonably withhold approval. Once the railroad or railroad  
17 corporation grants such approval, and upon payment of the fee and any  
18 other payments authorized pursuant to sections 389.586 or 389.587, the  
19 utility shall be deemed to have authorization to commence the crossing  
20 activity. The utility shall provide the railroad or railroad corporation  
21 with written notification of the commencement of the crossing activity  
22 before beginning such activity.

23 2. The land management company and the utility shall maintain  
24 and repair its own property within the land management corridor and  
25 each shall bear responsibility for its own acts and omissions, except

26 that the utility shall be responsible for any bodily injury or property  
27 damage arising from the installation, maintenance, repair and its use  
28 of the crossing. The railroad or railroad corporation may require the  
29 utility and the land management company to obtain reasonable  
30 amounts of comprehensive general liability insurance and railroad  
31 protective liability insurance coverage for a crossing, and that this  
32 insurance coverage name the railroad or railroad corporation as an  
33 insured. Further, the land management company and the utility shall  
34 provide the railroad or railroad corporation with proof that they have  
35 liability insurance coverage which meets such requirements, if any.

36 3. A utility shall have immediate access to a crossing for repair  
37 and maintenance of existing facilities in case of an immediate threat to  
38 life and upon notification to the applicable railroad or railroad  
39 corporation. Before commencing any such work, the utility must first  
40 contact the railroad or railroad corporation's dispatch center,  
41 command center or other facility which is designated to receive  
42 emergency communications.

43 4. The utility shall be provided a crossing, absent a claim of  
44 special circumstances, after payment by the utility of the standard  
45 crossing fee, submission of completed engineering specifications to the  
46 land management company, and approval of the crossing by the  
47 railroad or railroad corporation. The engineering specifications shall  
48 comply with the clearance requirements as established by the National  
49 Electrical Safety Code, the American Railway Engineering and  
50 Maintenance of Way Association and the standards of the applicable  
51 railroad or railroad corporation which are in effect and which apply to  
52 conditions at a particular crossing. The land management company  
53 and utility shall further be responsible for any modifications, upgrades  
54 or other changes which may be needed to comply with changes in said  
55 standards.

56 5. The utility, the railroad or railroad corporation, and the land  
57 management company shall agree to such other terms and conditions  
58 as may be necessary to provide for reasonable use of a land  
59 management corridor by a utility.

389.587. Unless otherwise agreed by the parties and subject to  
2 section 389.588, a utility that locates its facilities within the railroad  
3 right-of-way for a crossing, other than a crossing along a state highway

4 or other public road, shall pay the land management company a  
5 one-time standard crossing fee of one thousand five hundred dollars for  
6 each crossing plus the costs associated with modifications to existing  
7 insurance contracts of the land management company. The standard  
8 crossing fee shall be in lieu of any license, permit, application, plan  
9 review, or any other fees or charges to reimburse the land management  
10 company for the direct expenses incurred by the land management  
11 company as a result of the crossing. The utility shall also reimburse  
12 the land management company for any actual flagging expenses  
13 associated with a crossing in addition to the standard crossing fee. The  
14 railroad or railroad corporation has the right to halt work at the  
15 crossing if the flagging does not meet the standards of the railroad or  
16 railroad corporation. Nothing in this section is intended to otherwise  
17 restrict or limit any authority or right a utility may have to locate  
18 facilities at a crossing along a state highway or any other public road  
19 or to otherwise enter upon lands where authorized by law.

389.588. 1. Notwithstanding the provisions of section 389.586,  
2 nothing shall prevent a land management company and a utility from  
3 otherwise negotiating the terms and conditions applicable to a crossing  
4 or the resolution of any disputes relating to the crossing so long as they  
5 do not interfere with the rights of a railroad or railroad corporation.  
6 No agreement between a land management company and a utility shall  
7 affect the rights, interests or operations of a railroad or railroad  
8 corporation.

9 2. Notwithstanding subsection 1 of this section, the provisions of  
10 this section shall not impair the authority of a utility to secure crossing  
11 rights by easement pursuant to the exercise of the power of eminent  
12 domain.

389.589. 1. If the parties cannot agree that special circumstances  
2 exist, the dispute shall be submitted to binding arbitration.

3 2. Either party may give written notice to the other party of the  
4 commencement of a binding arbitration proceeding in accordance with  
5 the commercial rules of arbitration in the American Arbitration  
6 Association. Any decision by the board of arbitration shall be final,  
7 binding and conclusive as to the parties. Nothing provided in this  
8 section shall prevent either party from submission of disputes to the  
9 courts. Land management companies and utilities may seek

10 enforcement of sections 389.586 through 389.591 in a court of proper  
11 jurisdiction and shall be entitled to reasonable attorney fees if they  
12 prevail.

13 3. If the dispute over special circumstances concerns only the  
14 compensation associated with a crossing, then the utility may proceed  
15 with installation of the crossing during the pendency of the arbitration.

389.591. 1. Notwithstanding any provision of law to the contrary,  
2 sections 389.585 to 389.591 shall apply in all crossings of land  
3 management corridors involving a land management company and a  
4 utility and shall govern in the event of any conflict with any other  
5 provision of law, except that sections 389.585 to 389.591 shall not  
6 override or nullify the condemnation laws of this state nor confer the  
7 power of eminent domain on any entity not granted such power prior  
8 to August 28, 2013.

9 2. The provisions of sections 389.585 to 389.591 shall apply to a  
10 crossing commenced after August 28, 2013. These provisions shall also  
11 apply to a crossing commenced before August 28, 2013, but only upon  
12 the expiration or termination of the agreement for such crossing.

392.415. 1. Upon request, a telecommunications carrier or commercial  
2 mobile service provider as identified in 47 U.S.C. Section 332(d)(1) and 47 CFR  
3 Parts 22 or 24 shall provide call location information concerning the user of a  
4 telecommunications service or a wireless communications service, in an  
5 emergency situation, to a law enforcement official or agency in order to respond  
6 to a call for emergency service by a subscriber, customer, or user of such service,  
7 or to provide caller location information (or do a ping locate) in an emergency  
8 situation that involves danger of death or serious physical injury to any person  
9 where disclosure of communications relating to the emergency is required without  
10 delay.

11 2. No cause of action shall lie in any court of law against any  
12 telecommunications carrier or telecommunications service or commercial mobile  
13 service provider, or [against any telecommunications service or wireless  
14 communications] other provider of communications-related service, or its  
15 officers, employees, agents, or other specified persons, for providing any  
16 information, facilities, or assistance to a law enforcement official or agency [in  
17 accordance with the terms of this section] in response to requests made  
18 under the circumstances of subsection 1 of this section or for providing

19 **such information, facilities, or assistance through any plan or system**  
20 **required by sections 190.300 to 190.340.** Notwithstanding any other  
21 provision of law, nothing in this section prohibits a telecommunications carrier,  
22 [or] commercial mobile service provider, **or other provider of**  
23 **communications-related service** from establishing protocols by which such  
24 carrier or provider could voluntarily disclose call location information.

392.420. The commission is authorized, in connection with the issuance  
2 or modification of a certificate of interexchange or local exchange service  
3 authority or the modification of a certificate of public convenience and necessity  
4 for interexchange or local exchange telecommunications service, to entertain a  
5 petition to suspend or modify the application of its rules or the application of any  
6 statutory provision contained in sections 392.200 to 392.340 if such waiver or  
7 modification is otherwise consistent with the other provisions of sections 392.361  
8 to 392.520 and the purposes of this chapter. In the case of an application for  
9 certificate of service authority to provide basic local telecommunications service  
10 filed by an alternative local exchange telecommunications company, and for all  
11 existing alternative local exchange telecommunications companies, the  
12 commission shall waive, at a minimum, the application and enforcement of its  
13 quality of service and billing standards rules, as well as the provisions of  
14 subsection 2 of section 392.210, subsection 1 of section 392.240, **subsections 1**  
15 **and 4 of section 392.245**, and sections 392.270, 392.280, 392.290, 392.300,  
16 392.310, 392.320, 392.330, and 392.340. Notwithstanding any other provision of  
17 law in this chapter and chapter 386, where an alternative local exchange  
18 telecommunications company is authorized to provide local exchange  
19 telecommunications services in an incumbent local exchange telecommunications  
20 company's authorized service area, the incumbent local exchange  
21 telecommunications company may opt into all or some of the above-listed  
22 statutory and commission rule waivers by filing a notice of election with the  
23 commission that specifies which waivers are elected. In addition, where an  
24 interconnected voice over internet protocol service provider is registered to  
25 provide service in an incumbent local exchange telecommunications company's  
26 authorized service area under section 392.550, the incumbent local exchange  
27 telecommunications company may opt into all or some of the above-listed  
28 statutory and commission rule waivers by filing a notice of election with the  
29 commission that specifies which waivers are elected. The commission may  
30 reimpose its quality of service and billing standards rules, as applicable, on an

31 incumbent local exchange telecommunications company but not on a  
32 company-granted competitive status under subdivision (7) of subsection 5 of  
33 section 392.245 in an exchange where there is no alternative local exchange  
34 telecommunications company or interconnected voice over internet protocol  
35 service provider that is certificated or registered to provide local voice service  
36 only upon a finding, following formal notice and hearing, that the incumbent local  
37 exchange telecommunications company has engaged in a pattern or practice of  
38 inadequate service. Prior to formal notice and hearing, the commission shall  
39 notify the incumbent local exchange telecommunications company of any  
40 deficiencies and provide such company an opportunity to remedy such deficiencies  
41 in a reasonable amount of time, but not less than sixty days. Should the  
42 incumbent local exchange telecommunications company remedy such deficiencies  
43 within a reasonable amount of time, the commission shall not reimpose its quality  
44 of service or billing standards on such company.

392.461. A telecommunications company may, upon written notice to the  
2 commission, elect to be exempt from certain retail rules relating to:

3 (1) The provision of telecommunications service to retail customers and  
4 established by the commission which include provisions already mandated by the  
5 Federal Communications Commission, including but not limited to federal rules  
6 regarding customer proprietary network information, verification of orders for  
7 changing telecommunications service providers (slamming), submission or  
8 inclusion of charges on customer bills (cramming); or

9 (2) The installation, provisioning, or termination of retail service.

10 Notwithstanding any other provision of this section, a telecommunications  
11 company shall not be exempt from any commission rule established under  
12 authority delegated to the state commission pursuant to federal statute, rule or  
13 order, including but not limited to universal service funds, number pooling and  
14 conservation efforts, or any authority delegated to the state commission to  
15 facilitate or enforce any interconnection obligation or other intercarrier issue,  
16 including but not limited to, intercarrier compensation, network configuration or  
17 other such matters. Notwithstanding other provisions of this chapter or chapter  
18 386, a telecommunications company may, upon written notice to the commission,  
19 elect to be exempt from any requirement to file or maintain with the commission  
20 any tariff or schedule of rates, rentals, charges, privileges, facilities, rules,  
21 regulations, or forms of contract, **whether in whole or in part**, for  
22 telecommunications services offered or provided to residential or business retail

23 end user customers and instead shall publish generally available retail prices for  
24 those services available to the public by posting such prices on a publicly  
25 accessible website. **A telecommunications company may include in a tariff**  
26 **filed with the commission any, all, or none of the rates, terms, or**  
27 **conditions for any, all, or none of its retail telecommunications**  
28 **services.** Nothing in this section shall affect the rights and obligations of any  
29 entity, including the commission, established pursuant to federal law, including  
30 47 U.S.C. Sections 251 and 252, any state law, rule, regulation, or order related  
31 to wholesale rights and obligations, or any tariff or schedule that is filed with and  
32 maintained by the commission.

**392.611. 1. A telecommunications company certified under this**  
2 **chapter or holding a state charter authorizing it to engage in the**  
3 **telephone business shall not be subject to any statute in chapter 386 or**  
4 **this chapter (nor any rule promulgated or order issued under such**  
5 **chapters) that imposes duties, obligations, conditions, or regulations on**  
6 **retail telecommunications services provided to end user customers,**  
7 **except to the extent it elects to remain subject to certain statutes, rules,**  
8 **or orders by notification to the commission. Telecommunications**  
9 **companies shall remain subject to general, nontelecommunications-**  
10 **specific statutory provisions other than those in chapters 386 and this**  
11 **chapter to the extent applicable. Telecommunications companies shall:**

12 **(1) Collect from their end users the universal service fund**  
13 **surcharge in the same competitively neutral manner as other**  
14 **telecommunications companies and interconnected voice over internet**  
15 **protocol service providers, remit such collected surcharge to the**  
16 **universal service fund administrator, and receive, as appropriate, funds**  
17 **disbursed from the universal service fund, which may be used to**  
18 **support the provision of local voice service;**

19 **(2) Report to the commission such intrastate telecommunications**  
20 **service revenues as are necessary to calculate the commission**  
21 **assessment, universal service fund surcharge, and telecommunications**  
22 **programs under section 209.255; and**

23 **(3) Continue to comply with the provisions of section 392.415**  
24 **pertaining to the provision of location information in emergency**  
25 **situations.**

26 **2. Broadband and other Internet protocol-enabled services shall**  
27 **not be subject to regulation under chapter 386 or this chapter, except**

28 that interconnected voice over Internet protocol service shall continue  
29 to be subject to section 392.550. Nothing in this subsection extends,  
30 modifies, or restricts the provisions of subsection 3 of section 392.611.  
31 As used in this subsection, "other internet protocol-enabled services"  
32 means any services, capabilities, functionalities, or applications using  
33 existing internet protocol, or any successor internet protocol, that  
34 enable an end user to send or receive a communication in existing  
35 internet protocol format, or any successor internet protocol format,  
36 regardless of whether the communication is voice, data, or video.

37 3. Notwithstanding any other provision of this section, a  
38 telecommunications company shall not be exempt from any commission  
39 rule established under authority delegated to the state commission  
40 under federal statute, rule, or order, including but not limited to  
41 universal service funds, number pooling, and conservation  
42 efforts. Notwithstanding any other provision of this section, nothing  
43 in this section extends, modifies, or restricts any authority delegated  
44 to the state commission under federal statute, rule, or order to require,  
45 facilitate, or enforce any interconnection obligation or other  
46 intercarrier issue including, but not limited to, intercarrier  
47 compensation, network configuration or other such  
48 matters. Notwithstanding any other provision of this section, nothing  
49 in this section extends, modifies, or restricts any authority the  
50 commission may have arising under state law relating to  
51 interconnection obligations or other intercarrier issue including, but  
52 not limited to, intercarrier compensation, network configuration, or  
53 other such matters.

54 4. After August 28, 2013, telecommunications companies seeking  
55 to provide telecommunications service may, in lieu of the process and  
56 requirements for certification set out in other sections, elect to obtain  
57 certification by following the same registration process set out in  
58 subsection 3 of section 392.550, substituting telecommunications service  
59 for interconnected voice over internet protocol service in the  
60 requirements specified in subdivisions (1) to (8) of subsection 3 of  
61 section 392.550.

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